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10/695,137	10/28/2003	Larry E. Hawker	555255012611	6439
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PATENT GROUP 2N			EXAMINER	
JONES DAY			PAUL, DISLER	
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CLEVELAND, OH 44114			2615	
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			03/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/695,137	Applicant(s) HAWKER ET AL.	
	Examiner DISLER PAUL	Art Unit 2615	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25-2629-34,37-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-2629-34,37-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/10/05;7/20/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25,30-31, 33, 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable by Kraft et al. (US 2002/0107009 A1).

Re claim 25, Kraft disclose of the method of processing a voice call at a mobile device (fig.1-2), comprising: storing a safe volume profile at the mobile device associated with a handsfree mode of operation, the safe volume profile providing a default volume setting selected to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the handsfree mode of operation (page 3[0036,0037]/; fig.1-2, table 1-user may in addition to default mode choose others with selected volume setting may be selected & table 1 and & further see page 3[0037] / to protect the user's hearing); answering an incoming call with the mobile device in the handset mode of operation according to a regular volume profile that is lower than the default volume setting of the safe volume profile (table 1, fig.2/the user may either manually or automatically select mode with volume setting other than default); switching the mobile device from the first selected operational mode from the handset mode of operation to the handsfree mode of operation while processing the incoming call (page 1[0005]/mode may selectively switch by user according to user preference

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and parameter & further see fig.2;) ; and operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (page 2[0022], table 1/ phone with user volume setting may be selected by user).

While, Kraft disclose of the above with the selecting of mode of operation with different volume setting level for operation with the one speaker for operating the different modes (see above and fig.1 wt (20)), However, Kraft fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. However, as mention Kraft did disclose of the using the one speaker for operating the different modes (fig.1, table-1), However, it is common sense one of the ordinary skill in the art could have used several speakers to have operating different modes per speaker and furthermore using one or several speakers enable the performing of the same function such as to have different volume level setting per mode operation. Thus, official notice is taken the concept of having the phone with either one or multiple speakers for generating different mode of operation is simply the inventor's preference, thus it would have been obvious for one of the ordinary skill in the art to have modify Kraft by incorporating the phone with multiple speakers wherein each is used for the different modes and the purpose of this would have been to provide safe volume level during operation of different mode.

Re claim 33. Kraft disclose of the mobile device, comprising :a memory for storing a safe volume profile associated with a handsfree mode of operation (fig.1 (10)), the safe volume profile providing a default volume setting selected to reduce the risk of damage to a user's hearing if the mobile device is operated in close proximity to the user's ear while in the handsfree mode of operation (page 1[0005,0010]/control parameters with selected volume setting may be selected & table 1 and & further see page 3[0037] / volume setting for handsfree mode and further see (fig.1-2) , table 1 where user mode selecting with volume setting may be operated);a transceiver for receiving and answering an incoming call (fig.1-2/phones); a mode control system for selecting the handset mode of operation to process the incoming call, the handset mode of operation having an associated regular volume profile that is lower than the default volume setting of the safe volume profile (fig.1 ;11 & page 3[0026]) , the mode control system further comprising means for switching the mobile device from the handset mode of operation to the handsfree mode of operation while processing the incoming call and means for operating the mobile device in the handsfree mode of operation according to the safe volume profile so as to protect the hearing of the mobile device user (page 2. table 1-3; page 1[001]), user setting volume with parameters for changing in between mode ).

While, Kraft disclose of the above with the selecting of mode of operation with different volume setting level for operation with the one speaker for operating the different modes (see above and fig.1 wt (20)), However, Kraft fail to disclose of the specific wherein the phone having a first speaker and a second speaker, the first speaker for use in a handset mode of operation in which the mobile phone is placed in close proximity to a user's ear and the second

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speaker for use in a handsfree mode of operation, the second speaker capable of generating a larger acoustic output signal than the first speaker. However, as mention Kraft did disclose of the using the one speaker for operating the different modes (fig.1, table-1), However, it is common sense one of the ordinary skill in the art could have used several speakers to have operating different modes per speaker and furthermore using one or several speakers enable the performing of the same function such as to have different volume level setting per mode operation. Thus, official notice is taken the concept of having the phone with either one or multiple speakers for generating different mode of operation is simply the inventor's preference, thus it would have been obvious for one of the ordinary skill in the art to have modify Kraft by incorporating the phone with multiple speakers wherein each is used for the different modes and the purpose of this would have been to provide safe volume level during operation of different mode.

Re claim 30, the method of claim 25, further comprising: switching the mobile device from the handsfree mode of operation back to the handset mode of operation while processing the incoming call; and operating the mobile device in the handset mode of operation according to the regular volume profile (page 1[0010]; /mode may be changed with user preselected modes).

Re claim 31, the method of claim 25, further comprising: prior to answering the incoming call with the mobile device, enabling a notification on the mobile device indicating the receiving of the incoming call (page 2[table 1], [0016]).

Re claims 38-39 have been analyzed and rejected with respect to claims 30-31 respectively.

1. Claims 29, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and further in view of Schmidt (US 6,522,894 B1).

Re claim 29, the method of claim 25, But, Kraft fail to further disclose of the comprising: defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation. However, Schmidt disclose a phone with mode of operation wherein the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation (col.6 line 45-55) for providing control volume with the operating mode. Thus, taking the combined teaching of Kraft and now Schmidt as a whole, it would have been obvious for one of the ordinary skill in the art to modify Kraft by incorporating the defining a maximum safe volume in the safe volume profile; and preventing adjustment of the volume level from the default volume setting to a volume level that exceeds the maximum safe volume when in the handsfree mode of operation for providing control volume with the operating mode.

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Re claim 37, has been analyzed and rejected with respect to claim 29.

2. Claims 26, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and further in view of Shimizu et al. (US 2002/0031236 A1").

Re claim 26, the method of claim 25 with switch between modes, However, Kraft fail to disclose of the further comprising disabling adjustment of the volume level from the default volume setting of the safe volume profile for a predetermined time period after the user has switched the mobile device from handset mode of operation to the handsfree mode of operation. But, shimizu et al. did disclose of the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user with rotation (page 7[0069]) for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably. Thus, taking the combined teaching of Kraft and now Shimizu as a whole, it would have been obvious for one of the ordinary skill in the art to modify Kraft by incorporating the disabling of the adjustment of volume level from the safe default setting for a predetermined time period after the switching between modes by the user for the purpose of preventing the user for switch the mode by mistake so that sound volume can be prevented from changing considerably.

Re claims 34, have been analyzed and rejected with respect to claim 26 above.

3. Claims 32,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (US 2002/0107009 A1) and further in view of obviousness.



Re claim 32, the method of claim 31, further comprising: determining whether to answer the incoming call in response to the notification and diverting calls when not answered (table 1 and page 2[0016]), But, Kraft fail to disclose of the specific determining whether to redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered. However, official notice is taken that the limitation of redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to modify Kraft by incorporating the redirecting the voice call to a voicemail system associated with the mobile device if the voice call if not answered enabling the phone user to hear miscall messages over the mobile phone.

Similarly Re claim 40, has been analyzed and rejected with respect to claim 32.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DISLER PAUL whose telephone number is (571)270-1187. The examiner can normally be reached on 7:30-5:00.

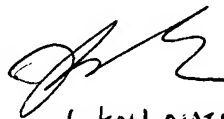
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. P./

Examiner, Art Unit 2615



VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER